



June 18, 2013

**Via Certified Mail Return Receipt**

H. Curtis Spalding, EPA Region 1 Administrator  
Environmental Protection Agency  
5 Post Office Square - Suite 100  
Boston, MA 02109

RECEIVED

JUN 24 2013

OFFICE OF THE REGIONAL ADMINISTRATOR

Re: *Connecticut Fund for the Environment, Inc., Soundkeeper, Inc. and Conservation Law Foundation, Inc. v. Valley Auto Body, Inc.*, United States District Court for the District of Connecticut, Case No. 3:12-cv-00840

Dear Administrator:

Pursuant to 33 U.S.C. § 1365(c)(3) of the Clean Water Act (CWA), lead counsel for Plaintiffs, Connecticut Fund for the Environment, Inc. ("CFE"), provides the attached proposed settlement agreement between Plaintiffs and Valley Auto Body ("Valley"), resolving alleged violations of the CWA and the General Permit for the Discharge of Stormwater Associated with Industrial Activity ("General Permit"), issued by the Department of Energy and Environmental Protection ("DEEP"). The parties intend to file a joint stipulated dismissal under the terms of the settlement agreement with the United States District Court for the District of Connecticut. This stipulated dismissal will be brought before the Court following the 45-day period for U.S. government review of the consent decree required by 40 C.F.R. §135.5(b).

The settlement agreement provides that Valley will make a supplemental environmental project payment of \$2,000 to Rivers Alliance of Connecticut, Inc., ("Rivers Alliance"), for use on projects relating to the reduction, mitigation and/or remediation of the effects of stormwater pollution or environmental restoration of or other benefit to the Naugatuck River watershed. We have included written confirmation from Rivers Alliance that the organization (1) has read the proposed settlement agreement; (2) will spend any monies it receives under the settlement agreement for the purposes specified in the agreement; (3) is a 501(c)(3) tax-exempt organization; and (4) will not use any money received under the settlement agreement for political lobbying activities.

By submitting this settlement agreement as requested, counsel for Plaintiffs asks the United States to promptly review the agreement and, if it does not object to dismissal of this action, to so notify the Court.

If you have any questions or concerns regarding this matter, please contact me.

Sincerely,



RECEIVED  
JUN 1 2013  
8:08 AM

Roger F. Reynolds  
Connecticut Fund for the Environment  
142 Temple Street, Suite 305  
New Haven, CT 06510  
(203) 787-0646 x 105  
rreynolds@ctenvironment.org

Attorney for Plaintiffs  
Connecticut Fund for the Environment, Inc.  
Soundkeeper, Inc.  
Conservation Law Foundation, Inc.

## **SETTLEMENT AGREEMENT**

WHEREAS, Plaintiffs Connecticut Fund for the Environment, Inc. ("CFE"), Soundkeeper, Inc. ("Soundkeeper"), and Conservation Law Foundation, Inc. ("CLF") filed an action on June 6, 2012, against Defendant Valley Auto Body, Inc., ("Valley Auto"), alleging violations of 33 U.S.C. §§ 1311(a) and 1342 of the Clean Water Act ("CWA"), specifically alleged stormwater violations, and seeking declaratory and injunctive relief, civil penalties, and reasonable attorneys' fees and costs (Case No. 3:12-cv-00840-SRU) ("Action");

WHEREAS, CFE is a Connecticut based nonprofit environmental organization with members who use and enjoy Connecticut's lakes, rivers and Long Island Sound;

WHEREAS, Soundkeeper is a Connecticut based nonprofit environmental organization with members who use and enjoy Long Island Sound, for both commercial and recreational purposes;

WHEREAS, CLF is a regional, nonprofit environmental organization with members who use and enjoy the Long Island Sound watershed for recreational, aesthetic and scientific purposes;

WHEREAS, Valley Auto owns and operates an automobile salvage facility, which operations are located at 990 Huntingdon Ave., Waterbury, CT 06704 (the "Facility");

WHEREAS, CFE, Soundkeeper, and CLF (collectively, "Plaintiffs") retained an environmental engineer to evaluate the alleged CWA violations, and on April 12, 2013, such engineer and representatives of the Plaintiffs inspected the Facility during a rain event;

WHEREAS, based on such investigation and other circumstances, the Plaintiffs wish to terminate the aforementioned litigation;

WHEREAS, based on such investigation and other circumstances, Valley Auto, likewise wishes this litigation be terminated;

WHEREAS, shortly after such inspections the Plaintiffs and Valley Auto (collectively, "the Parties") agreed that it would be in their mutual interest to resolve this matter at this time without the taking of evidence or findings of fact or law, and without incurring further litigation costs.

WHEREAS, this Agreement shall be submitted to the United States Department of Justice and the United States Environmental Protection Agency for the 45 day statutory review period pursuant to 33 U.S.C. § 1365(c);

NOW, THEREFORE, in consideration of the promises and other consideration described below, the Parties agree as follows:

1. The Plaintiffs agree to file a Stipulated Notice of Dismissal in the above-referenced action with prejudice within five (5) days of the date of the last party to execute this Agreement.
2. The "Effective Date" of this Agreement shall be at the expiration of the 45 day statutory review period with the DOJ and EPA required by 33 U.S.C. § 1365(c), or upon conclusion of such review, whichever is sooner.
3. Based on the aforementioned investigation of the Facility, the Plaintiffs will not require Valley Auto or the Facility to obtain a Stormwater Permit. However, Plaintiffs suggest that Valley Auto utilize best management practices in the operation of the Facility.
4. No later than 120 days following the Effective Date, Valley Auto shall remove all visible tires from the pond located at or adjacent to the Facility whether or not such tires were placed in the pond by vandals or by other means. Also, during the foregoing time period Valley Auto shall endeavor to better organize the Facility by removing litter from the access road to the Facility, creating discrete storage areas for tires, returning fallen parts to vehicles and keeping aisles generally free of debris.
5. Valley Auto shall make a payment of two thousand dollars (\$2,000) to Rivers Alliance of Connecticut, P.O. Box 1797, 7 West Street, 3rd Floor, Litchfield, CT 06759, tel: 860-361-9349, in the form of a certified bank check for use on projects relating to the reduction, mitigation, and/or remediation of the effects of stormwater pollution or environmental restoration of or other benefit to the Naugatuck River watershed. Payments shall be made on or before the deadlines set forth below:

\$500 to be paid within 30 days of the Effective Date,  
\$500 to be paid by January 15, 2015, and  
\$1,000 to be paid by January 15, 2016.

6. Valley Auto shall pay a sum of eight thousand dollars (\$8,000) in the form of certified bank check without the inference of admission of liability which the Parties mutually agree shall not be construed or inferred as liability for the claims asserted in the Action. These payments shall be made payable to "Connecticut Fund for the Environment, Inc.", and shall be made on or before the deadlines set forth below:

\$2,500 to be paid within 30 days of the Effective Date,  
\$2,500 to be paid by January 15, 2015, and  
\$3,000 to be paid by January 15, 2016.

7. The Parties mutually consent not to sue and hereby release each other (including its representatives, assigns, agents, employees, officers, attorneys and consultants) from any and all claims, causes of action, or liability for damages, penalties, fines, injunctive relief, or any other claim or relief relating to or resulting from this Action, this Agreement and acts or omissions arising out of the foregoing occurring prior to the Effective Date. This Paragraph does not constitute a waiver or release of any claims relating to the enforcement of this Agreement. This release does not and cannot extend to claims that

the United States chooses to bring, nor does it extend to claims that a person or organization other than CFE, CLF, and/or Soundkeeper chooses to bring.

8. Plaintiffs will provide Valley Auto with five (5) business days written notice prior to initiating court proceedings to enforce this Agreement at the address shown below.
9. CFE, Soundkeeper, and CLF do not by consent to the Agreement warrant or aver in any manner that Valley's compliance with this Agreement will constitute or result in compliance with federal or state law or regulation. Nothing in this Agreement shall be construed to affect or limit in any way the obligation of Valley to comply with all federal, state, and local laws and regulations governing any activity required by this Agreement.
10. This Agreement constitutes the entire agreement among the Parties concerning the subject matter hereof and supersedes all previous correspondence, communications, agreements and understandings, whether oral or written, among the Parties.
11. Any communications required to be made under the provisions of this Agreement (collectively, "Notices") by any Party hereto shall be effective only if in writing and (a) personally served, (b) mailed by United States registered or certified mail, return receipt requested, postage prepaid, or (c) sent by a nationally recognized courier service (i.e., Federal Express) for next-day delivery, to be confirmed in writing by such courier. Notices shall be directed to the Parties at their respective addresses set forth below. Notices given in the foregoing manner shall be deemed given (a) when actually received or refused by the party to whom sent if delivered by courier, or (b) if mailed, on the day of actual delivery as shown by the addressee's registered or certified mail receipt or at the expiration of three (3) business days after the date of mailing, whichever first occurs. Notices for CFE, Soundkeeper, and CLF shall be sent to:

Roger Reynolds, Esq.  
Connecticut Fund for the Environment  
142 Temple Street, Suite 305  
New Haven, CT 06510

Notices sent to the individual listed above at the address listed above shall be deemed as notice to CFE, Soundkeeper, and CLF.

Notice for Valley Auto shall be sent to:

John F. Hychko  
Valley Auto Body, Inc.  
990 Huntington Ave.  
Waterbury, CT 06704

Each Party shall promptly notify the other Party of any change in the above-listed contact information by using the procedures set forth on this paragraph.

12. Each person signing this Agreement represents and warrants that s/he has been duly authorized to enter into this Agreement by the Party on whose behalf it is indicated that the person is signing.
13. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective representatives, heirs, executors, administrators, successors, officers, directors, agents, attorneys, employees and permitted assigns.
14. The provisions contained herein shall not be construed in favor of or against any Party because that Party or its counsel drafted this Agreement, but shall be construed as if all Parties prepared this Agreement, and any rules of construction to the contrary are hereby specifically waived. The terms of this Agreement were negotiated at arm's length by the Parties hereto.
15. This Agreement may be executed in two or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.
16. In the event that any of the provisions of this Agreement are held by a court to be unenforceable, the validity of the enforceable provisions shall not be adversely affected.
17. This Agreement may be modified only upon written consent of the Parties

CONNECTICUT FUND FOR THE ENVIRONMENT, INC.

BY: [Signature] DATE: 6/10/2013  
TITLE: Legal Director

SOUNDKEEPER, INC.

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
TITLE: \_\_\_\_\_

CONSERVATION LAW FOUNDATION, INC.

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
TITLE: \_\_\_\_\_

VALLEY AUTO BODY, INC.

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
TITLE: \_\_\_\_\_



12. Each person signing this Agreement represents and warrants that s/he has been duly authorized to enter into this Agreement by the Party on whose behalf it is indicated that the person is signing.
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CONNECTICUT FUND FOR THE ENVIRONMENT, INC.

BY: \_\_\_\_\_ DATE: \_\_\_\_\_

TITLE: \_\_\_\_\_

SOUNDKEEPER, INC.

BY: Barbara Backer DATE: 06/07/13  
TITLE: Exec. Director

CONSERVATION LAW FOUNDATION, INC.

BY: \_\_\_\_\_ DATE: \_\_\_\_\_

TITLE: \_\_\_\_\_

VALLEY AUTO BODY, INC.

BY: \_\_\_\_\_ DATE: \_\_\_\_\_

TITLE: \_\_\_\_\_

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17. This Agreement may be modified only upon written consent of the Parties

CONNECTICUT FUND FOR THE ENVIRONMENT, INC.

BY: \_\_\_\_\_ DATE: \_\_\_\_\_

TITLE: \_\_\_\_\_

SOUNDKEEPER, INC.

BY: \_\_\_\_\_ DATE: \_\_\_\_\_

TITLE: \_\_\_\_\_

CONSERVATION LAW FOUNDATION, INC.

BY:  DATE: 6/9/13

TITLE: Vice President

VALLEY AUTO BODY, INC.

BY: \_\_\_\_\_ DATE: \_\_\_\_\_

TITLE: \_\_\_\_\_



CONNECTICUT FUND FOR THE ENVIRONMENT, INC.

TITLE: \_\_\_\_\_

TITLE: \_\_\_\_\_

TITLE: \_\_\_\_\_

TITLE: Oceanic



# Rivers Alliance of Connecticut

## BOARD

### OFFICERS

Eileen Fielding  
President

James Creighton  
Vice President

James McInerney  
Treasurer

David Bingham  
Secretary

### DIRECTORS

William Anthony

Martin Mador

Sarah Martin

Dwight Merriam

David Radka

Jacqueline Talbot

Lynn Werner

Richard Windels

### EXECUTIVE

#### DIRECTOR

Margaret Miner

### DEVELOPMENT

#### DIRECTOR

Rose Guimaraes

### WEBSITE

#### COORDINATOR

Tony Mitchell

A tax-exempt  
organization under  
501 (c) (3) of the  
Internal Revenue  
Code

Citizen Suit Coordinator  
Environment and Natural Resources Division  
Law and Policy Section  
P.O. Box 4390  
Ben Franklin Station  
Washington, D.C. 20044-4390

June 5, 2013

Re: Proposed Consent Decree  
Case No. 3:12-cv-00840-SRU  
Valley Auto Body, Inc., Waterbury, CT

Dear Citizen Suit Coordinator:

Rivers Alliance of Connecticut, Inc., is a 501(c)(3) nonprofit organization dedicated to the protection and restoration of rivers and all waters in Connecticut. We were founded in 1992, and our tax identification number is 06-1361719. We assist local watershed groups, provide educational programs on the value of water resources, and work to establish sound policies and practices for water management.

We have received and read the proposed consent decree relating to Valley Auto Body, Inc., in which Rivers Alliance is named as the Supplemental Environmental Project (SEP) recipient of \$2,000 "for use on projects relating to the reduction, mitigation, and/or remediation of the effects of stormwater pollution or environmental restoration of or other benefit to the Naugatuck River watershed. We have a strong interest in the Naugatuck, its tributaries, and related waters

Rivers Alliance will manage and oversee the funding for this project so that the funds will serve solely to fulfill the purpose of the consent decree. No portion of the funds received from this settlement will be awarded to Soundkeeper Inc., or other parties to the agreement. Nor will any portion of the funds be used for lobbying or other political activities.

Thank you for helping to conserve rivers in Connecticut. If you need more information, please let me know.

Sincerely,

Margaret Miner  
Executive Director